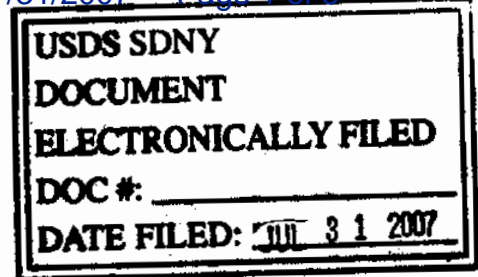




THE CITY OF NEW YORK
LAW DEPARTMENT

100 CHURCH STREET
NEW YORK, N.Y. 10007

MICHAEL A. CARDOZO
Corporation Counsel



BRIAN G. MAXEY
Assistant Corporation Counsel
Tel (212) 788-0987
Fax (212) 788-9776

July 30, 2007

BY FAX

Honorable Paul A. Crotty
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007
(212) 805-6304

July 31, 2007
Application GRANTED
SO Ordered

Paul M. Kelly
USDS

Re: Victor Benitez v. City of New York, et al., 07 CV 4814 (PAC)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of this action on behalf of defendant City of New York.

On June 26, 2007, I attempted to fax a letter request for enlargement of time to answer to your attention, and to plaintiff's counsel. Apparently, while the fax to plaintiff's counsel was successful, my letter request did not go through to chambers.

Attached, please find my original request for enlargement of time to answer in the above captioned matter. Defendant City respectfully requests that your honor grant the enlargement of time to answer until August 24, 2007, as outlined in the June 26, 2007, letter.

Thank you for your consideration.

Respectfully submitted,

Brian G. Maxey (BM 0451)

BY FAX

Matthew Flamm, Esq.
(718) 522-2026

MEMO ENDORSED



THE CITY OF NEW YORK
LAW DEPARTMENT
100 CHURCH STREET
NEW YORK, N.Y. 10007

MICHAEL A. CARDOZO
Corporation Counsel

BRIAN C. MAXEY
Assistant Corporation Counsel
Tel: (212) 788-0987
Fax: (212) 788-9776

June 26, 2007

BY FAX

Honorable Paul A. Crotty
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007
(212) 805-6304

Re: Victor Benitez v. City of New York, et al., 07 CV 4814 (PAC)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department handling the defense of this action on behalf of defendant City of New York. I am writing with the consent of plaintiff's counsel, Matthew Flamm, Esq., to request a sixty-day enlargement of time, from June 26, 2007 to August 24, 2007, within which this office may answer or otherwise respond to the complaint. This is the City's first request for an enlargement of time in this action.

The plaintiff alleges, *inter alia*, that he was subjected to excessive force in violation of his constitutional rights under the Eighth and Fourteenth Amendments. Plaintiff also alleges state law claims including assault, battery, and conversion. In addition to the City of New York, plaintiff also names Correctional Captain Smith and Correction Officers Gaines and Santiago¹.

¹ Upon information and belief, none of the individually named defendants have been served in this matter. The defendants were named with fictitious first names as their true names are apparently unknown to plaintiff. Defendants will provide the names and addresses of the individually named officers to plaintiff as soon as they are available.

Before this office can adequately respond to the complaint, we will need to conduct an investigation into the facts of the case and forward to plaintiff for execution authorizations for the release of the underlying arrest and prosecution records, which may have been sealed pursuant to NYCPL § 160.50. Without the underlying records, the defendants cannot properly assess this case or respond to the complaint. Accordingly, the enlargement of time will afford us the opportunity to investigate the matter and to secure the relevant documents.

This additional time should allow plaintiff to serve the individual defendants. Thereafter, pursuant to Section 50-k of the New York General Municipal Law, this office must determine, based on a review of the case, whether we may represent the individually named defendant. The officers must then decide whether he wishes to be represented by this office. If so, we must obtain his written authorization. Only after this procedure has been followed can we determine how to proceed in this case.

In view of the foregoing, it is respectfully requested that the Court grant the within request extending the City's time to answer or otherwise respond to the complaint until August 24, 2007.

Thank you for your consideration in this regard.

Respectfully submitted,



Brian G. Maxey (BM 0451)

BY FAX

Matthew Flamm, Esq.
Attorney for Plaintiff
(718) 522-2026

**** Transmit Confirmation Report ****

P.1

Jun 26 2007 03:27pm

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THE CITY OF NEW YORK
LAW DEPARTMENT
 100 CHURCH STREET
 NEW YORK, NY 10007
FACSIMILE TRANSMISSION

TO: Honorable Paul A. Crotty
 United States District Judge
 Southern District of New York
 600 Pearl Street
 New York, New York 10007
 (212) 805-6304

FROM: Brian G. Maxey, Esq.
 Special Federal Litigation Division
 (212) 788-0987
 fax: (212) 788-9776
 bmaxey@law.nyc.gov

FAX #: (212) 805-6304

DATE: June 26, 2007

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Message:

CC

BY FAX
 Matthew Hamm, Esq.
 Attorney for Plaintiff
 (718) 522-2026

**** Transmit Confirmation Report ****

P.1

Jun 26 2007 03:24pm

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THE CITY OF NEW YORK
LAW DEPARTMENT
 100 CHURCH STREET
 NEW YORK, NY 10007
FACSIMILE TRANSMISSION

TO: Honorable Paul A. Crotty
 United States District Judge
 Southern District of New York
 500 Pearl Street
 New York, New York 10007
 (212) 805-6304

FROM: Brian G. Maxey, Esq.
 Special Federal Litigation Division
 (212) 788-0987
 fax: (212) 788-9776
 bmaxey@law.nyc.gov

FAX #: (212) 805-6304

DATE: June 26, 2007

You should receive 3 pages, including this one.
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Message:

CC:

BY FAX

Matthew Flamm, Esq.
 Attorney for Plaintiff
 (718) 522-2026